



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 17, 2010

Ms. Amy L. Sims  
Assistant City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2010-14163

Dear Ms. Sims:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 393812.

The Lubbock Police Department (the "department") received a request for police incident logs for four specific dates, incident reports for incidents where a K9 unit was present during the same dates, and several categories of information pertaining to K9 animals and handlers during specified time periods. You indicate that some of the responsive information is being released to the requestor. You claim that portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See id.* § 552.108(a)(2). A

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you do not present any arguments against disclosure under that section. Since you have not submitted arguments concerning section 552.101, we assume that you no longer urge it. *See* Gov't Code §§ 552.301(b), (e), .302

governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that Exhibit B pertains to a criminal investigation that has been concluded and that did not result in conviction or deferred adjudication. Based on your representation and our review, we find that section 552.108(a)(2) is applicable to Exhibit B.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Open Records Decision No. 127 (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold Exhibit B under section 552.108(a)(2).<sup>2</sup>

You claim that portions of Exhibit C and the entirety of Exhibit D are excepted from disclosure under section 552.108(b)(1) of the Government Code. Section 552.108(b)(1) excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if “release of the internal record or notation would interfere with law enforcement or prosecution.” Gov't Code § 552.108(b)(1). Section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with on-going law enforcement and prosecution efforts in general. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). This office has stated that under the statutory predecessor to section 552.108(b), a governmental body may withhold information that would reveal law enforcement techniques or procedures. *See, e.g.*, Open Records Decision Nos. 531 (1989) (release of detailed use of force guidelines would unduly interfere with law enforcement), 456 (1987) (release of forms containing information regarding location of off-duty police officers in advance would unduly interfere with law enforcement), 413 (1984) (release of sketch showing security measures to be used at next execution would unduly interfere with law enforcement), 409 (1984) (if information regarding certain burglaries exhibit a pattern that reveals investigative techniques, information is excepted under predecessor to section 552.108), 341 (1982) (release of certain information from Department of Public Safety would unduly interfere with law enforcement because release would hamper departmental efforts to detect forgeries of

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<sup>2</sup>We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov't Code § 552.007.

drivers' licenses), 252 (1980) (predecessor to section 552.108 is designed to protect investigative techniques and procedures used in law enforcement), 143 (1976) (disclosure of specific operations or specialized equipment directly related to investigation or detection of crime may be excepted). Generally known policies and techniques may not be withheld under section 552.108. *See, e.g.*, ORD 531 at 2-3 (Penal Code provisions, common law rules, and constitutional limitations on use of force are not protected under predecessor to section 552.108), 252 at 3 (governmental body did not meet burden because it did not indicate why investigative procedures and techniques requested were any different from those commonly known). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. *See* Open Records Decision No. 409 at 2 (1984) (construing statutory predecessor).

You state that the information you have marked in Exhibit C and all of the information in Exhibit D reveals tactical information and "demonstrates how these animals are trained to react and behave in detecting narcotics and other dangerous substances, such as explosives." You state that release of this information could endanger the lives of department officers and "would allow criminals to circumvent or inhibit use of these animals." Based on these arguments and our review, we find that release of the information you have marked in Exhibit C and the information we have marked in Exhibit D would interfere with law enforcement. Accordingly, the department may withhold the information you have marked in Exhibit C and the information we have marked in Exhibit D under section 552.108(b)(1) of the Government Code. We find, however, that the department has not demonstrated that release of the remaining information in Exhibit D would interfere with law enforcement or crime prevention. Thus, the remaining information in Exhibit D is not excepted from disclosure under section 552.108. As no further exceptions are raised, the remaining information in Exhibit D must be released to the requestor.

In summary, with the exception of basic information, which must be released, the department may withhold Exhibit B under section 552.108(a)(2) of the Government Code. The department may withhold the information you have marked in Exhibit C and the information we have marked in Exhibit D under section 552.108(b)(1) of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, reading "Laura Ream Lemus".

Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/sdk

Ref: ID# 393812

Enc. . Submitted documents

c: Requestor  
(w/o enclosures)